

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

EDEN ROGERS and

BRANDY WELCH,

Plaintiffs,

-against-

UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES;

ALEX AZAR, in his official capacity as Secretary
of the UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES;

ADMINISTRATION FOR CHILDREN AND
FAMILIES;

LYNN JOHNSON, in her official capacity as
Assistant Secretary of the ADMINISTRATION
FOR CHILDREN AND FAMILIES;

SCOTT LEKAN, in his official capacity as
Principal Deputy Assistant Secretary of the
ADMINISTRATION FOR CHILDREN AND
FAMILIES;

HENRY MCMASTER, in his official capacity as
Governor of the STATE OF SOUTH CAROLINA;
and

MICHAEL LEACH, in his official capacity as State
Director of the SOUTH CAROLINA
DEPARTMENT OF SOCIAL SERVICES,

Defendants.

Case No. 6:19-cv-1567-TMC

**PLAINTIFFS' MOTION TO
COMPEL DISCOVERY**

PLAINTIFFS' MOTION TO COMPEL DISCOVERY

Plaintiffs Eden Rogers and Brandy Welch (“Plaintiffs”) respectfully submit this Motion to Compel Discovery from Defendants Henry McMaster and Michael Leach (together, “State Defendants”).

As set forth in greater detail in the attached Memorandum, Plaintiffs served discovery requests on both State Defendants on June 4, 2020. At Defendants’ request and on their representation that they were making “diligent efforts” to collect and review documents, Plaintiffs granted each State Defendant a 30-day extension to respond to the requests. State Defendants then produced document productions on August 4, 2020, that were deficient on their face. From each Defendant, the productions spanned fewer than 400 pages, included no responsive documents to the majority of Plaintiffs’ requests and no draft documents, plainly derived from only a few custodians and rested on a myriad of expansive and unwarranted objections. Plaintiffs’ subsequent efforts to meet and confer with State Defendants regarding their discovery responses were unproductive, as State Defendants refused to provide any information about what was done to search for responsive documents and refused to engage in any fruitful conversation regarding potential next steps. Thus, for the reasons set forth in the attached Memorandum, Plaintiffs respectfully request that the Court order State Defendants to cooperate with Plaintiffs regarding their discovery obligations and to produce all documents that have been improperly withheld.

Pursuant to Local Rule 7.04, all relevant portions of the discovery material are filed with this motion as exhibits to the Declaration of Peter T. Barbur, filed herewith.

October 5, 2020

/s/ *Susan K. Dunn*

Susan K. Dunn (Federal Bar No. 647)
AMERICAN CIVIL LIBERTIES UNION
OF SOUTH CAROLINA FOUNDATION
P.O. Box 20998
Charleston, SC 29413
(843) 282-7953
sdunn@aclusc.org

South Carolina Equality Coalition, Inc.
Nekki Shutt (Federal Bar No. 6530)
M. Malissa Burnette (Federal Bar No. 1616)
BURNETTE SHUTT & MCDANIEL, PA
912 Lady Street, 2nd floor
P.O. Box 1929
Columbia, SC 29202
(803) 850-0912
mburnette@burnettshutt.law
nshutt@burnettshutt.law

Peter T. Barbur (admitted *pro hac vice*)
CRAVATH, SWAINE & MOORE LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019
(212) 474-1000
pbarbur@cravath.com

Leslie Cooper (admitted *pro hac vice*)
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10004
(212) 549-2633
lcooper@aclu.org

Daniel Mach (admitted *pro hac vice*)
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
915 15th Street NW
Washington, DC 20005

(202) 675-2330
dmach@aclu.org

M. Currey Cook (admitted *pro hac vice*)
Cathren Cohen (admitted *pro hac vice*)
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.

120 Wall Street, 19th Floor
New York, NY 10005
(212) 809-8585
ccook@lambdalegal.org
ccohen@lambdalegal.org

Karen L. Loewy (admitted *pro hac vice*)
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.

1776 K Street NW, 8th Floor
Washington, DC 20006-2304
(202) 804-6245
kloewy@lambdalegal.org

Attorneys for Plaintiffs